

**TOWN OF LOS GATOS**

**AND**

**LOS GATOS TOWN EMPLOYEES' ASSOCIATION**



**MEMORANDUM OF UNDERSTANDING**

**NOVEMBER 1, 2006 - OCTOBER 31, 2008**

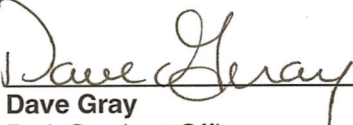
**MEMORANDUM OF UNDERSTANDING  
BETWEEN  
THE TOWN OF LOS GATOS  
AND  
THE TOWN EMPLOYEES ASSOCIATION (T.E.A.)**

THIS AGREEMENT IS ENTERED INTO AS OF NOVEMBER 1, 2006, BETWEEN THE TOWN OF LOS GATOS, HEREINAFTER REFERRED TO AS THE "TOWN", AND THE LOS GATOS TOWN EMPLOYEES ASSOCIATION, HEREINAFTER REFERRED TO AS "T.E.A."

Pursuant to Town Resolution 1974-41 of the Town of Los Gatos and Section 3500 et. seq. of the Government Code, the duly authorized representatives of the Town and T.E.A., having met and conferred in good faith concerning the issues of wages, hours, and terms and conditions of employment, as herein set forth, declare their agreement to the provisions of this Memorandum of Understanding.

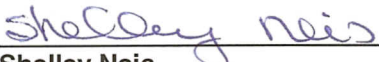
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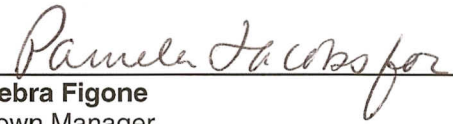
  
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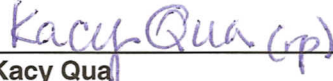
  
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Town Consultant

**ATTEST FOR THE TOWN OF LOS GATOS**

  
**Jackie Rose** 7.18.07  
Clerk Administrator

Approved as to form:

  
**Orry P. Korb**, Town Attorney

**MEMORANDUM OF UNDERSTANDING  
BETWEEN  
THE TOWN OF LOS GATOS  
AND  
THE TOWN EMPLOYEES ASSOCIATION (T.E.A.)**

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**TOWN OF LOS GATOS  
AND THE TOWN EMPLOYEES ASSOCIATION  
COMPREHENSIVE MEMORANDUM OF UNDERSTANDING  
ON SALARIES, FRINGE BENEFITS  
AND WORKING CONDITIONS**

**PREAMBLE**

The authorized representatives of the Town of Los Gatos hereafter referred to as the "Town" and the authorized representatives of the Town of Los Gatos Employees Association hereafter referred to as "T.E.A." do jointly accept and agree to all the terms and conditions of employment set forth in this comprehensive memorandum of understanding pursuant to Town Resolution 1974-41 of the Town of Los Gatos and the Meyers-Milias-Brown Act, Section 3500 et. seq. of the Government Code.

This understanding shall apply to represented employees assigned to those classifications listed on Appendix A. When classifications are created which fall under the representation of T.E.A., this understanding shall also apply. This agreement supersedes all previous agreements between the Town and T.E.A.

The terms and conditions of employment set forth in this understanding have been discussed in good faith by the authorized representatives of the Town and the authorized representatives of the employees. T.E.A. agrees to recommend acceptance by the employees of all terms and conditions set forth herein. Following said acceptance by T.E.A., authorized representatives of the Town agree to recommend to the Town Council that all terms and conditions set forth herein be approved by resolution. Upon adoption of said resolution, all terms and conditions so incorporated shall become effective without further action by either party.

**TERM**

This Memorandum of Understanding shall commence on November 1, 2006 and terminate on October 31, 2008.

**GOAL**

This Memorandum of Understanding (MOU) has been prepared in a spirit of cooperation between T.E.A. and the Town. The purpose of this MOU is to define all presently known issues concerning employment, foster a sense of team work between T.E.A. and the Town, create conditions under which the highest quality of public service is delivered.

**1. SCOPE OF REPRESENTATION**

Employees represented by T.E.A. are those in permanent positions in the classifications listed in Appendix A.

If it should become necessary to reduce the hours of any employee whose classification is listed in Appendix A, such employee's representation by T.E.A. will not be affected. The Town agrees to notify T.E.A. before filling a vacated represented position with an hourly employee.

**2. TOWN EMPLOYER-EMPLOYEE RELATIONS**

**2.1 T.E.A. Rights**

The Town recognizes the employees' right to join and participate in T.E.A. T.E.A. shall provide the Town with a list of T.E.A. officers and department representatives. T.E.A. shall distribute to all new unit employees materials furnished for such purposes by T.E.A.

Upon request of any employee represented by this agreement, a T.E.A. representative shall be present during meetings involving the individual employee in disciplinary matters. Oral reprimands and performance evaluations are not included in the above. To the extent possible, disciplinary and grievance matters shall be considered during normal working hours and with pay.

T.E.A. shall have access to its members, bulletin boards, and Town mail system on Town time.

Up to five (5) T.E.A. members shall be allowed, as long as there is no disruption in work, up to eight (8) hours for T.E.A. President, and two (2) hours for each T.E.A. member each month of release time off with pay for meeting and conferring, meeting and consulting or the processing of grievances in accordance with the grievance procedure, Section 21 of this MOU. Town initiated meetings are not subject to release time limits. Such T.E.A. members shall first obtain permission from department heads before leaving their work or work locations. T.E.A. general membership meetings will continue to be held during lunch or after work.

## 2.2 Town Employer-Employee Relations Resolution

T.E.A. and the Town recognize the existing language in Town Resolution 1974-41, or its successor as it governs all aspects of labor relations in the Town.

Any changes in Resolution 1974-41 which apply to T.E.A. will be made after meeting and consulting with T.E.A.

## 2.3 Employee Rights

The Town adopts, in principle, the following rights, duties and responsibilities of its employees:

- 2.3.1 Organize and select leaders and representatives.
- 2.3.2 Employee and Town actions shall be governed by the Memorandum of Understanding (MOU), personnel rules and Town policies.
- 2.3.3 At T.E.A.'s request the Town Manager shall meet twice during the term of this agreement with T.E.A. to discuss matters of employee interest.
- 2.3.4 Utilization of the Disciplinary Procedure (see Resolution 1974-41 or its successor, if any during the term of this MOU, and Ordinance No. 1593).
- 2.3.5 Right to request a review of his/her classification and receive a response to the request.

## 2.4 Management Rights

The rights of the Town include, but are not limited to the exclusive right to:

- 2.4.1 Determine the mission of its constituent departments, commissions and boards;

- 2.4.2 Set the standards of service;
- 2.4.3 Determine the procedures and standards of selection for employment and promotion;
- 2.4.4 Direct its employees;
- 2.4.5 Take disciplinary action in accordance with adopted disciplinary procedures, recognizing the employee's right to due process;
- 2.4.6 Relieve its employees from duty because of lack of work or for other legitimate reasons;
- 2.4.7 Maintain the efficiency of governmental operations;
- 2.4.8 Determine the methods, means and personnel by which government operations are to be conducted;
- 2.4.9 Determine the content of job classifications;
- 2.4.10 Take all necessary action to determine when an emergency exists and to carry out its mission in emergencies including the requirement that employees work overtime. Any question regarding the existence of an emergency is determined by the Town Manager, whose decision shall be final;
- 2.4.11 Exercise control over its organization and the technology of performing its work;
- 2.4.12 Refer any question regarding implementation or interpretation of the M.O.U. to the Town Manager or the Town Personnel Officer for a determination.

**3. COMPREHENSIVENESS OF AGREEMENT**

- 3.1 The Town and T.E.A. agree that this agreement represents all wages, hours, and working conditions subject to the meet and confer process and available to employees.
- 3.2 In the event that a local, State or Federal law significantly impacts the terms of this MOU, the Town will meet and consult with T.E.A. regarding its implementation. In some cases, this may occur after the law or rule has been adopted.

**4. SAVINGS CLAUSE**

If any provision or the application of any provision of this agreement as implemented should be rendered or declared invalid by any final court action or decree or by reasons of any preemptive legislation, the remaining sections of this agreement shall remain in full force and effect for the duration of this agreement.

**5. AGENCY SHOP**

The Town and T.E.A. will fully comply with Government Code section 3502.5 regarding the establishment of Agency Shop for employees in the T.E.A. bargaining unit.

**6. PAYROLL DEDUCTION**



The Town will deduct from the bi-weekly paycheck and remit to the Association, the normal and regular Association membership dues as voluntarily authorized in writing by the employees subject to the following conditions:

- 6.1 Such deduction shall be made only upon submission of deduction form to the Human Resources Director. Said form shall be duly completed and signed by the employee.
- 6.2 The Town shall not be obligated to put into effect any new, changed, or discontinued deduction until the pay period commencing thirty (30) days or longer after such submission.
- 6.3 Every effort will be made to remit dues to the T.E.A. within two weeks of deduction from members' wages. T.E.A. agrees to indemnify and hold the Town harmless for any suits, claims, demands, or liabilities that may arise as a result of the Town withholding such dues.

## **7. NON-DISCRIMINATION**

The Town and T.E.A. agree that all provisions of this Agreement shall be applied equally to all employees covered herein without favor or discrimination because of race, creed, color, sex, age, national origin, political or religious affiliation, marital status, sexual orientation, or physical or mental disability.

### **7.1 General Provision Regarding Americans With Disabilities Act (ADA)**

- 7.1.1 Because the ADA requires accommodations for individuals protected under the Act, T.E.A. recognizes the Town's obligation to comply with all provisions of the ADA on a case by case basis.
- 7.1.2 T.E.A. recognizes that the Town has the legal obligation to meet with the individual employee to be accommodated before any adjustment is made in working conditions. T.E.A. will be notified of these proposed accommodations prior to implementation by the Town.
- 7.1.3 Any accommodation provided to an individual, protected by the ADA shall not establish a past practice.

## **8. EMPLOYMENT**

### **8.1 Step Placement for New Hires**

T.E.A. recognizes the sole right of the Town to determine the salary and wage rate for new hires.

### **8.2 Probationary Period**

- 8.2.1 The probationary period shall be twelve (12) months for all newly hired employees and those receiving promotions. Probationary employees will be evaluated quarterly.
- 8.2.3 Promoted employees can be considered for satisfactory completion of the probationary period after the six month evaluation. Promoted probationary employees, shall have all rights under this agreement, full and complete access to the grievance procedure, including instances of suspension, demotion and termination.

- 8.2.4 Any permanent employee not satisfactorily completing the probationary period following a promotion will be reinstated to their previous classification in accordance with the Town Personnel Rules.

### 8.3 Performance Evaluations

The Town authorized employee performance evaluation document and program shall be used for all employee evaluations.

- 8.3.1 It is intended that performance evaluations take place at least annually as follows:
  - (a) For employees below top step: no later than 15 days prior to the anniversary date of the employee's date of hire or the date the employee entered their classification.
  - (b) For employees at top step: between June 1 and October of each year.
- 8.3.2 If an employee's merit increase is withheld, subsequent evaluations will return to the original anniversary date. Employee evaluation forms shall include a section to be checked indicating whether an employee agrees or disagrees with his/her evaluation.
- 8.3.3 All performance evaluations shall be discussed with the employee prior to the evaluation being completed. Employees shall sign their individual performance evaluations as evidence of discussion having taken place; employee signature does not necessarily imply agreement with the evaluation. An employee may attach separate written comments to his/her evaluation.
- 8.3.4 If an employee does not receive an evaluation on the date it is due and the supervisor subsequently finds that the employee would have been entitled to a merit increase as of the anniversary date, the merit increase will become effective as of the first day of the pay period in which the anniversary date occurs.
- 8.3.5 The Town will make every attempt to see that the performance evaluations are completed in a timely manner.

### 8.4 Promotions

- 8.4.1 The Town and T.E.A. agree that it is in the best interest of both the Town and its employees to foster promotion of incumbent employees. The Town will consider the qualifications of incumbent personnel prior to determining whether an open or promotional examination shall be used to fill a vacancy in T.E.A.-represented classifications.
- 8.4.2 Employees desiring promotion or change of job classification shall keep an interest card on file with the Town Human Resources Department.
- 8.4.3 The Town and T.E.A. recognize the Town's sole right to determine the method for the selection of Town employees through either an open or promotional examination process. If a determination is made by the Town that a promotional examination will be used to fill a vacant position, any qualified employees who participate in the examination process shall be allowed time off from regularly scheduled work in order to participate in the examination process if the

examination process is scheduled during the employee's normal work period. There shall be no overtime paid for participation in the examination process.

- 8.4.4 All Town job announcements shall be posted on Town bulletin boards and circulated to the T.E.A. President prior to public advertisement.

8.5 Work Day/Week

- 8.5.1 The normal work day is defined as no more than eight (8), nine (9), ten (10), or eleven (11) consecutive hours of work time, with a single lunch break. A normal work day shall be followed by a minimum of ten (10) hours off.
- 8.5.2 The work week is defined as forty (40) hours of work during any consecutive seven (7) day period. A minimum of one (1) forty-eight (48) hour period without scheduled work shall be provided to each employee during any consecutive seven (7) day period with the exception that employees employed in the Town Library shall not be scheduled less than two (2) consecutive days off within a seven (7) day period more than thirteen (13) times in a calendar year.
- 8.5.3 Flex-time work schedules consistent with the definitions of normal work day and normal work week may be assigned by the Town at its sole discretion. The Town shall provide no less than seventy-two (72) hours notice to affected employees regarding a change in regular work schedules. Employees who work in the Library shall be provided no less than fourteen (14) calendar days notice regarding a change in regular work schedules. Flex-days shall be identified and approved by the Department Head and Town Manager as part of the approval of a flex-time work schedule as well as the designation of the forty-eight (48) hour period without scheduled work.
- 8.5.4 Employees may also make requests for temporary changes to their normal work schedule. In those cases, the employee's schedule may change with the approval of the employee's department head (e.g. an earlier start and end of shift or a change in the number of hours per day), so long as that change does not result in overtime liability to the Town.
- 8.5.5 The Town has the discretionary right to alter work schedules without notice during emergency situations.

8.6 Alternative Work Schedule

Alternative to the normal schedule described in 8.5 above, employees may be granted the option to participate in an Alternative Work Schedule under the following terms and conditions:

- 8.6.1 An Alternative Work Schedule (AWS) is defined as:
- (a) 9/80: An employee schedule of nine separate work days for a total of 80 hours during a Town-designated fourteen-day pay period, for which the schedule includes working four 9-hour days and one 8-hour day in one week and working four 9-hour days in the other week. For payroll purposes, the work week will begin and end between 11:00 a.m. and at 1:00 p.m. on each Friday.

-OR-

- (b) 4/10: An employee schedule of eight separate work days for a total of 80 hours during a Town-designated fourteen-day pay period, for which the schedule includes working four 10-hour days in one week and working four 10-hour days in the other week. For payroll purposes, the work week will begin and end at midnight Saturday.
- 8.6.2 The Department Head, with the approval of the Town Manager, has the exclusive authority to designate positions eligible to participate in the AWS. The decision of the Department Head regarding designation of eligible positions is final and is not subject to any grievance procedure.
- 8.6.3 The Department Head and the Town Manager have the exclusive right to terminate the AWS for T.E.A. represented employees, individually and/or collectively. The Town is in no way required to meet and confer with the T.E.A. prior to terminating the AWS and termination of the AWS is not subject to any grievance procedure. Participating employees will be provided written notification at least one full pay period prior to termination of the AWS.
- 8.6.4 Employees who elect to participate in the AWS must receive authorization from their supervisor prior to working any regularly scheduled day off.
- 8.6.5 An employee assigned to an AWS may use accrued vacation time, accrued compensatory time off, floating holiday, annual leave, or personal leave to make up the difference between the provided eight hours of holiday pay and the actual number of regularly scheduled working hours on a designated holiday. For example, if a holiday falls on a day the employee is scheduled to work nine (9) or ten (10) hours, s/he shall receive eight (8) hours of holiday pay and be required to use other accrued leaves to make up the extra one (1) or two (2) hours for that day to fulfill the regularly assigned schedule.
  - (a) If a holiday occurs on a day that an employee is not scheduled to work, s/he shall receive eight (8) hours of floating holiday, which is not subject to cash-out.
  - (b) An employee who elects to take a regularly scheduled AWS day off shall use accrued leave time (vacation time, accrued compensatory time off, floating holiday, annual leave, or personal leave) for the number of hours they are regularly scheduled to work (nine (9) hours for 9/80 schedules and ten (10) hours for 4/10 schedules.)
  - (c) There will be no change in the accrual schedule of maximum accrual level of any paid leaves.
  - (d) Employees on an AWS will be provided 40 hours of Bereavement Leave, pursuant to the T.E.A. Memorandum of Understanding.
  - (e) A scheduled work day will include an unpaid meal break of at least one-half hour.
  - (f) T.E.A.-represented employees are integral to the success of the AWS and understand the ongoing need to meet the operational needs of the Town.
- 8.6.6 A participating employee may request that their AWS be discontinued by providing written notification to their supervisor at least one full pay period in advance of the termination of the AWS. Changes to an employee's AWS will coincide with the beginning of a pay period.

## **9. LAYOFF POLICY**

### **9.1 Definitions**

For the purposes of this section:

- 9.1.1 Layoff: Separation of employees from the active work force due to change in the duties, change in the organization or shortage of work or funds.
- 9.1.2 Temporary/Seasonal/Consultant Employee: An at-will non-benefitted employee who is hired on a temporary basis, usually not to exceed 180 days.
- 9.1.3 Hourly Employee: An at-will non-benefitted employee who works less than 20 hours per week and not more than 1000 hours in a fiscal year.
- 9.1.4 Probationary Employee: Any employee tentatively appointed to a position who is continuing the testing process to determine his/her fitness for duty. Probationary employees are new employees of the Town or employees under probationary status because of promotion.
- 9.1.5 Regular Employee: Benefitted employees who successfully complete their probationary period and who regularly work a minimum of 20 to 40 hours per week.
- 9.1.6 Displaced Employee: A regular employee who is displaced by a more senior regular employee.
- 9.1.7 Service seniority: Consecutive time served (based upon number of hours worked) as a regular employee of the Town without the employee being reinstated as defined in the Town of Los Gatos Personnel Rules and Regulations, Section 10.6 "Reinstatement". Service seniority will not be earned for standby duty, overtime work, during periods of suspension without pay as a result of disciplinary action, or for non-medical leave without pay. Service Seniority for unpaid military leave will be considered in the manner prescribed by State and Federal law.
- 9.1.8 Classification Seniority: The length of time (based upon the number of hours worked) the employee has served as a regular employee in a classification including anytime spent in a higher classification. Classification seniority will not be earned for standby duty, overtime work, during periods of suspension without pay as a result of disciplinary action, or for non-medical leave without pay. Classification Seniority for unpaid military leave will be considered in the manner prescribed by State and Federal law.
- 9.1.10 Higher classification: A job classification in the same classification series in which the maximum rate of pay is greater than the maximum rate of pay of the employee's current job classification.

### **9.2 Town - T.E.A. Cooperative Efforts**

- 9.2.1 When the Town determines that layoffs are imminent, it shall provide written notification to T.E.A. Further, in the spirit of cooperation, the Town or the T.E.A. may request a meeting to jointly discuss alternatives to layoff, including, but not limited to, attrition or a reduction in work hours. Every effort shall be made to fill any vacant position(s) in the Town with qualified laid-off employee(s).

- 9.2.2 Notwithstanding the effort to work cooperatively, the Town has the exclusive right to determine the methods, means, numbers and kinds of personnel by which services are to be provided. The Town's decision to make a reduction in force and/or layoff an employee(s) is not subject to the duty to meet and confer.

9.3 Order of Layoff & Procedure

- 9.3.1 Whenever it is determined that a layoff must occur within a job classification, the order of layoff shall be:

- (1) temporary/seasonal at-will
- (2) hourly at-will
- (3) probationary
- (4) regular employee

- 9.3.2 In each type of employment, the employee(s) with the least classification seniority in the affected job classification(s) shall be laid-off first.

- 9.3.3 In the event that two or more employees in a job classification have the same level of classification seniority, then the employee with the least service seniority with the Town shall be laid-off. If there is no distinction between the service seniority of two or more employees, then the employee with the lowest score on the eligibility list for the current classification shall be laid-off first.

9.4 Displacement Rights

- 9.4.1 An employee may displace any other employee in a lower classification which they previously occupied if they have more service seniority. For a job classification lower than that in which the employee holds regular status, seniority shall be calculated by adding: (1) classification seniority in higher classifications; (2) classification seniority in the job classification in which the employee previously worked, and (3) present time spent in the job classification in which the employee is currently working.

- 9.4.2 Employees who are designated for layoff or displacement may elect, in lieu of layoff or displacement, to be reassigned to a position in a lower classification. In order to displace an employee with less classification seniority, the employee noticed for layoff must have held regular status in the classification into which he/she is being reassigned. An employee who chooses to exercise their displacement rights must accept the salary, hours and working conditions of their new position. An employee will be allowed only one displacement.

- 9.4.3 An employee who exercises their displacement rights shall be paid in the new job classification the salary range step closest to the salary range step received immediately prior to displacement, providing there is no increase in salary. If the salary range step in the lower job classification is Step 5 or lower, future salary step adjustment opportunities shall be made in accordance with the Town's Personnel Rules. Time served in the job classification from which the displacement occurred shall count toward the interval required for consideration of salary step advancement.

- 9.4.4 If an employee with regular status is unable to displace an employee in a lower job classification in which he/she held a regular status, he/she shall be laid-off.

9.4.5 An employee may request layoff in lieu of the opportunity to displace by notifying the Human Resources Department in writing within ten (10) business days of certified mailing of notice of layoff. If an employee requests layoff in lieu of displacement, he/she shall forfeit all recall rights except to a vacancy in the same classification from which the employee was laid-off. In this case, the employee shall be entitled to recall rights for a period of one (1) year from the effective date of the layoff.

9.4.6 A probationary employee who held regular status in his/her previous position, and is affected by a layoff or is displaced by an employee exercising his/her displacement rights, shall return to his/her former job classification where he/she held regular status. If a probationary employee does not have regular status in another job classification or has regular status in another job classification which no longer exists, he/she will be laid-off without any right of recall.

9.5 Seniority List

At least ten (10) business days prior to mailing a written notice of layoff, the Town shall provide a seniority list notice to affected employee(s) and the current President of the T.E.A. bargaining unit. The seniority list notice shall show the names, classification, classification seniority, service seniority, and the process for reporting discrepancies. The seniority list shall be deemed correct unless an employee or the T.E.A. notifies the Human Resources Director to the contrary in writing within ten (10) business days of the delivery and/or mailing of the seniority list.

9.6 Notification of Layoff

The Town shall send by certified mail, return receipt requested, written notice of layoff to all affected employee(s). Such notice shall be postmarked at least thirty (30) calendar days in advance of the effective date of layoff. The layoff notice shall be mailed to the employee's address currently on file in the Human Resources Department and shall be deemed appropriate notice. Any employee who is on a paid or unpaid leave shall be affected by the layoff in accordance with the provisions of this section and in the same manner as all other employees. With such notice, the employee shall be informed of the rights to which she/he is entitled and the procedure to be followed. A copy of the notice shall also be provided to the current President of the Town Employees Association.

9.7 Re-Employment Following Layoff/Displacement

9.7.1 When a vacancy occurs in a job classification, the laid-off or displaced employee(s) eligible to return to that job classification shall be recalled in the inverse order of layoff. Employees with regular status who were laid-off or displaced are eligible to return to the job classification in which regular status is held, but shall have no recall rights to any job classification in which probationary status was held at the time of layoff or displacement.

9.7.2 Employee(s) shall be entitled to re-employment rights for a period of one (1) year from the effective date of layoff or displacement. To expedite re-employment, more than one (1) laid-off/displaced employee may be notified when an opening occurs. The laid-off/displaced employee(s) will be re-hired in inverse order of layoff. A laid-off/displaced employee shall be required to meet the qualifications of the classification to which he/she is recalled.

- 9.7.3 An employee who exercises their re-employment rights shall be paid the salary range step they received immediately prior to layoff/displacement. Future salary step adjustment opportunities shall be made in accordance with the Town's Personnel Rules. Time served in the job classification since the most recent step increase prior to when the layoff/displacement occurred, shall count toward the interval required for consideration of salary step advancement.
- 9.7.4 A laid-off/displaced employee shall lose their re-employment rights for: 1) resignation; 2) retirement; 3) failure to return to work when recalled by the Town; 4) when the Town has not recalled an employee to work for a period of one (1) year; and 5) termination for cause.
- 9.7.5 Laid-off Employees: The effective date of layoff shall be the employee's last day working at the Town. When a vacancy exists and employees are to be re-employed, notice of the opening(s) shall be sent by certified mail, return receipt requested, to the last known address on file in the Human Resources Department. It shall be incumbent upon the laid-off employee to advise the Human Resources Department in writing, via certified mail, return receipt requested, of any change in address. The laid-off employee shall have ten (10) business days, following the certified mailing to notify the Town in writing, via certified mail, return receipt requested, of their intent to return to work.
- 9.7.6 The laid-off employee shall have a reasonable period of time to return to work, not to exceed thirty (30) calendar days. If the laid-off employee fails to respond to the notice of re-employment within ten (10) business days, or fails to report to work within the reasonable time period as set forth above, he/she will forfeit all re-employment rights.
- 9.7.7 Displaced Employees: The effective date of displacement shall be the employee's last day of work in the classification from which he/she is displaced. When a vacancy exists and displaced employees are to be re-employed, notice of the opening(s) shall be sent by certified mail, return receipt requested, to the last known address on file in the Human Resources Department or by hand delivery. It shall be incumbent upon the displaced employee to advise the Human Resources Department in writing of any change in address. The displaced employee shall have five (5) business days, following receipt of certified mailing or hand delivery of notice, to advise the Town in writing of their intent to return to their former position. If the displaced employee fails to respond to the notice of re-employment to former position within five (5) business days of receipt of notice, he/she will forfeit all re-employment rights to his/her former position.

9.8 Fringe Benefits

Laid-off/displaced employees shall be paid accrued leaves and related benefits in accordance with this Memorandum of Understanding and applicable Town policies and rules. Employees being re-employed who received a sick leave pay off at the time of layoff/displacement, shall have the uncompensated portion of their sick leave balance restored; provided, however, that only those sick leave hours accrued after re-employment shall be applied to sick leave payoff or retiree medical related to a subsequent termination.



**10. OUTSIDE EMPLOYMENT**

The Town and T.E.A. agree that outside employment of full time T.E.A.-represented employees shall be governed by California Government Code Sections 1125 -1128 and that the Town shall develop and apply regulations to assure compliance. Outside employment shall be reviewed and approved by the Department Head and Town Manager on an annual basis.

**11. RECLASSIFICATION**

T.E.A. recognizes the sole right of the Town to reclassify positions.

**12. SALARY AND OTHER COMPENSATION**

**12.1 Town Compensation Policies**

Town and T.E.A. agree that this Agreement has been negotiated consistent with Town compensation policies through the term of this agreement. The specific policies are:

- 12.1.1 Total compensation to be utilized in the analysis of all Town compensation.
- 12.1.2 Marketplace consideration in establishing compensation.
- 12.1.3 Average or above-average total compensation for all Town classifications.
- 12.1.4 No reduction in individual employee total compensation levels.
- 12.1.5 Final determination on changes in compensation based on Town's ability to pay.

**12.2 Compensation**

As reflected in the salary schedules listed in Appendix A, the following increases are to be effective in the pay period which includes the dates below:

November 1, 2006: 3%  
November 1, 2007: 3%

**12.3 Overtime**

- 12.3.1 When necessary to perform essential work, a department head may require an employee to work at any time other than during regular working hours until such work is completed. Overtime is scheduled solely at the discretion of the Town.
- 12.3.2 An employee directed by his/her department administrator or the Town Manager to work in excess of forty (40) hours in a designated work week, shall be compensated at the rate of one and one-half times the employee's regular hourly rate. Hours charged to available paid leave, shall be counted as time worked for computation of overtime payments. Compensatory time can not be used in the pay-period in which it is earned. Effective June 25, 2000, compensatory time off shall not be regarded as hours worked for the purposes of overtime calculation.
- 12.3.3 The Department Head may permit an employee to take compensatory time in lieu of paid overtime. With Department Head approval, employees shall be permitted to accumulate compensatory time only to a maximum of sixty (60) hours. The maximum accumulated compensatory time for Communication Dispatchers only shall be one hundred (100) hours. When the maximum level of compensatory time is reached, overtime shall be paid.

- 12.3.4 The Town will attempt to avoid scheduling overtime that conflicts with an employee's personal plans unless it cannot be avoided.

#### 12.4 Call Back

- 12.4.1 A minimum of three (3) hours pay or its equivalent in compensatory time off, at the rate of time and one-half, shall be guaranteed for every employee, who, after leaving his/her place of duty, is required to return to duty without advance notice of at least fourteen (14) calendar days.
- 12.4.2 There will be a three (3) hour minimum at the call back overtime rate for Town commission/council meetings which begin (2) two hours or more than either the start of or end of the employee's regularly scheduled shift. At the employee's option but with Department Head's approval, employees may flex their schedule at the straight-time rate in-lieu of the call back provision of this paragraph.

#### 12.5 Deferred Compensation

A Town program of deferred compensation shall be available to T.E.A. represented employees. The Town makes no representation on the merit of the plan nor any of the investment products or instruments which may be offered by the plan. The responsibility for evaluating the investment options within the plan is the responsibility of the individual participant. The Town shall not be obligated to offer more than one Deferred Compensation carrier.

#### 12.6 Out-of-Classification Pay

- 12.6.1 The Town and T.E.A. agree that it is the intent of Town management, whenever possible, to avoid working an employee out of classification for a prolonged period of time. Compensation for out-of-classification work shall be an additional 5% of the regular pay of the employee's permanent classification or the first step of the higher classification, whichever is greater.
- 12.6.2 Employees appointed to work out-of-class will receive out-of-classification pay beginning the first day of the out-of-classification assignment. Performance of duties as a vacation relief does not automatically qualify as out-of-classification.
- 12.6.3 For purposes of this section, an out-of-classification assignment is defined as the full time performance of the essential functions of an authorized, funded, permanent position in another classification by a qualified employee. "Essential functions" shall be as defined in the Essential Functions section of the appropriate job specification.
- 12.6.4 Any employee who believes they are working out-of-class may request a review of their classification.
- 12.6.5 Training programs mutually agreed to by the Town and T.E.A. which are designed to enhance and/or provide career development opportunities shall not be subject to this provision.

#### 12.7 Tuition Reimbursement Program

- 12.7.1 The Town will reimburse T.E.A. employees up to fifteen hundred dollars (\$1,500) per fiscal year toward the cost of books, university/school fees (except parking) and tuition.

- 12.7.2 The reimbursement shall be only for courses that are directly related to the employee's position as determined by the Town Manager, including general education courses that are generally related to attainment of a job-related degree or certification. General education courses not generally related to the employee's position will not be eligible for reimbursement. Reimbursement shall be taxed pursuant to State and Federal regulations.
- 12.7.3 Application for tuition reimbursement shall be made to the Town before the course begins. Prior to reimbursement of costs, all course work must be completed with a passing grade of "C" or equivalent when numerical score or pass/fail is given.
- 12.7.4 Any employee who terminates employment with the Town within one (1) year from the completion of a class or classes, for which tuition reimbursement was paid shall refund all tuition paid under this provision, unless required to attend by the appointing authority.

12.8 Bilingual Incentive Pay

- 12.8.1 Employees filling classifications specifically requiring bilingual ability and passing the Town's certified examination shall be compensated at 2.5% above the normal compensation range for the regular classification.
- 12.8.2 The provision of bilingual pay will be evaluated annually in a manner prescribed by the Town, and continued or discontinued based on operational need. The decision as to whether bilingual pay will continue or be discontinued shall be made by the Town Manager, is final and is not subject to grievance or appeal. If bilingual pay is discontinued, the effective date shall be the beginning of the first full pay period in January.

12.9 Uniform Allowance

- 12.9.1 An initial uniform consisting of all items on the Town-approved list shall be supplied by the Town to new Park Services Officer and Town-designated Community Services Officer and Parking Control Officer employees; thereafter the Town shall provide incumbent Park Services Officer employees with a uniform allowance of \$500 per year and designated Community Service Officer and Parking Control Officer employees with a uniform allowance of \$400 per year to be paid in the payroll check during January of each year.
- 12.9.1 The uniform allowance will be prorated for new employees, except that new employees shall receive a minimum of one-half (1/2) of the year's uniform allowance if hired after July 1.
- 12.9.2 T.E.A. recognizes the Town's right to specify uniform and demand that employees be in proper uniform at all times.
- 12.9.3 In the event that an employee who does not receive a uniform allowance damages his/her clothing in the performance of his/her duties, the employee may submit a claim for reimbursement to his/her Department Head for the repair/replacement of damaged articles to the Town.

12.10 Exceptional Performance Bonus

Effective October 24, 2004, the Exceptional Performance Bonus program shall be eliminated. In lieu of this program, step six of all T.E.A. classifications shall be approximately 5% greater than step 5 and an additional \$0.577 per hour, as reflected in the salary schedules listed in Appendix A.

12.11 Holiday Compensation

12.11.1 Employees will receive eight (8) hours of regular pay when scheduled to have the holiday off (eight [8] hours total). If the employee's scheduled day off occurs on a recognized Town holiday, the employee will receive eight (8) hours of holiday pay (e.g. eight hours in addition to all time worked or paid in the pay period). In lieu of receiving eight (8) hours of holiday pay, an employee may elect to receive eight (8) hours of compensatory time.

12.11.2 Employees who are required to work on a holiday, recognized in the MOU, will be compensated as follows:

- (a) Workday: If the holiday occurs on a normally scheduled workday, the employee will receive eight (8) hours of holiday pay and time and one-half for the hours actually worked on the holiday (twenty [20] hours total).
- (b) Day Off: If the holiday occurs on a normally scheduled day off, the employee will receive eight (8) hours of holiday pay and eight (8) hours of straight time plus time and one-half for the hours actually worked on the holiday (twenty-eight [28] hours total.)
- (c) Dispatchers: Dispatchers will receive compensation in-lieu of holiday time off equal to eighty-eight (88) hours to be distributed as forty-four (44) hours of base pay in separate payroll checks distributed the last working week of November and May of each year to be paid in the payroll check. (Permanent half-time positions will be prorated to twenty-two [22] hours.)
- (d) Park Services Officers: Parks Services Officers hired after July 1, 2002, will receive compensation in -lieu of time off equal to eighty-eight (88) hours to be distributed as forty-four (44) hours of base pay in separate payroll checks to be distributed the last working week of November and May of each year to be paid in the payroll check.

12.11.3 Notwithstanding any other provision of this section, employees who have voluntarily requested and received approval to work a flex-time work schedule shall:

- (a) Receive eight (8) hours of regular pay when a holiday occurs on the agreed upon regularly scheduled work day that they do not work (eight [8] hours total). Employees may use accrued vacation time, personal leave, or take unpaid leave to make up the difference between the provided eight (8) hours of holiday pay and the actual number of regularly scheduled working hours for that day;
- (b) Not receive holiday pay when the employee's regularly scheduled day off occurs on a recognized Town holiday.

12.12 Testimony for Town Matters

Compensation for an employee subpoenaed to provide testimony for Town related matters and participation in any legal matter required as a result of working for the Town will be reviewed on a case by case basis.

12.13 Retirement Health Savings Plan

The Town will continue to investigate options regarding a retirement health savings plan. A quarterly progress report will be provided to T.E.A. either in writing or by meeting with T.E.A.

**13. PAYROLL/PAYCHECKS**

13.1 Payroll Periods

The Town and T.E.A. agree that a biweekly payroll period shall be utilized subject to the following conditions:

13.1.1 Employee pay shall not be withheld more than seven (7) calendar days following the end of the payroll period; however, overtime may appear on the next payroll period if it is worked following the submittal of time sheets, or during a pay period with a Town holiday which requires early submittal of time sheets and early distribution (before Friday) of pay checks. This may also occur at the end of the Fiscal or Calendar year.

13.1.2 All Town employees shall be compensated on a biweekly basis.

13.2 Paychecks

13.2.1 The Town shall provide an optional direct deposit system for use by employees.

13.2.2 Every effort will be made to make paychecks available to employees as soon as checks are signed and ready for distribution.

**14. HOLIDAYS**

14.1 The following shall be observed as eight (8) hour holidays for members of the unit:

January 1st (New Year's Day)  
The 3rd Monday in January (Martin Luther King's Birthday)  
The 3rd Monday in February (President's Day)  
The last Monday in May (Memorial Day)  
July 4th (Independence Day)  
The first Monday in September (Labor Day)  
Thanksgiving Day  
The Friday following Thanksgiving Day  
December 25th (Christmas Day)  
Four (4) hours each on December 24 and 31  
Every day declared a holiday by the President or Governor, subject to the Mayor also proclaiming the day as a holiday.

14.2 Holidays which fall on Saturday shall be observed on the Friday prior, and holidays which fall on Sunday shall be observed on the following Monday.

**15. INSURANCE PROGRAMS**

15.1 Life Insurance

Town to pay premiums on minimum coverage of \$50,000 and \$50,000 Accidental Death benefit. Additional life insurance may be purchased by the employee.

15.2 Disability Insurance

The Town will provide a Short Term Disability policy effective the 8th calendar day; coverage of 60% of weekly earning up to maximum of \$1300/week for 12 weeks. Long Term Disability benefits begin on the 91st day of disability; coverage of 60% of monthly earnings up to a maximum of \$6000/month.

15.3 Workers' Compensation

15.3.1 The Town and T.E.A. agree that employees who sustain illness or injury arising out of and in the course of their Town employment shall receive benefits equal to those mandated by the State of California plus the difference between State mandated benefits and the equivalent of 100% of the individual's regular salary, if any, paid by the Town for the first thirty (30) calendar days of absence. Town shall deduct leave balances from the employee's accrued sick leave, accumulated overtime, vacation leave, and annual leave (in that order) for all Town paid compensation.

15.3.2 An employee may at his/her discretion advise the Town that he/she does not wish to be compensated at a level above the State-mandated benefits. In such case, the Town would provide no further compensation and there would be no charge to leave balances. An employee without leave balances shall only be paid State mandated benefits.

15.3.3 Effective the 31st day of disability, the employee may elect to supplement the State mandated benefits with the Town's Short Term/Long Term Disability Insurance. STD benefits will be reduced by the amount of periodic payments the employee is entitled to through Worker's Compensation.

15.4 Liability Insurance

The Town shall continue to maintain a public officials liability insurance policy covering all Town employees in the execution of their official duties.

15.5 Employee Assistance Program

Premium shall be paid by the Town.

15.6 Unemployment Insurance

The Town will provide State mandated benefits through a reimbursement program.

15.7 Vision Plan

Effective August 1, 2000, employees shall be enrolled in the Town's vision-care health plan (VSP Plan B, with \$20 co-pay). The Town shall pay for employee-only coverage. At their own cost, employees may enroll eligible dependents upon hire, during open enrollment and/or when a qualifying event occurs.

**16. CASH ALLOCATION PLAN**

- 16.1 Employees hired prior to November 15, 2004 shall be provided a cash allocation for benefits as follows:

From July 1, 2004 through December 31, 2004, the Town shall provide each employee a cash allocation each month an amount equal to the monthly cost of family coverage for Kaiser Medical Insurance Program provided through the California Public Employees' Retirement System Health Benefit Medical Program.

Effective January 1, 2005: \$800 per month (\$9,600 annually)

Employees hired on November 15, 2004 or later shall be provided a cash allocation for benefits of \$400 per month.

- 16.2 Benefits that can be purchased through the cash allocation plan include medical, dental and vision insurance. These benefits are available on a pre-tax basis. If the premium cost of the health plan exceeds the Town contribution, the employee shall pay through payroll deduction the difference between the monthly premium and the amount contributed by the Town. With the exception of dental insurance, there will be an annual open-enrollment period.
- 16.3 Employees may choose to receive part or all of their cash allocation in cash. Any amount received as cash is taxable. Employees electing to receive cash have the option of receiving two (2) equal payments in December and June each year, or of receiving payment in the first two paychecks of each month (twenty-four [24] times a year).
- 16.4 Pre-tax benefits available in the program are medical, vision, and dental insurance. Medical benefits are available through the Public Employees' Retirement Health Benefits Program. Dental insurance is available through Delta Dental Plan. Vision insurance is available through VSP.
- 16.5 Effective January 1, 2006, in order to be eligible to participate in the cash-allocation program as described above, employees must either purchase medical insurance through the Town or show proof of alternative medical insurance coverage.

**17. FAMILY MEDICAL INSURANCE PLAN**

- 17.1 In lieu of the cash allocation provided in Section 16, employees may elect to receive from the Town a contribution toward the monthly medical insurance premiums equal to the cost of family coverage for Kaiser Medical Insurance Program provided through the California Public Employees' Retirement System Health Benefit Medical Program. If the premium cost of the health plan exceeds the Town contribution, the employee shall pay through payroll deduction the difference between the monthly premium and the amount contributed by the Town. The employee shall forfeit any balance should the Town's contribution exceed the cost of the premium.

- 17.2 Employees choosing this option in lieu of the cash allocation provided in Section 16 will also be provided up to the cost of the Delta Premier Plan toward the cost of dental coverage. If the premium cost of the dental plan exceeds the Town contribution, the employee shall pay through payroll deduction the difference between the monthly premium and the amount contributed by the Town. The employee shall forfeit any balance should the Town's contribution exceed the cost of the premium.
- 17.3 Employees choosing this option shall not receive the cash allocation provided in Section 16. Pre-tax benefits available in the program are medical, vision, and dental insurance. Medical benefits are available through the Public Employee's Retirement Health Benefits Program. Dental insurance is available through Delta Dental Plan. Vision insurance is available through VSP.

**18. PUBLIC EMPLOYEES' RETIREMENT SYSTEM (P.E.R.S.)**

**18.1 2% at 55**

Effective 12-16-92, the Town's contract with the Public Employees' Retirement System (PERS) includes the 2% at 55 retirement formula for eligible Miscellaneous Town employees (regular employees).

**18.2 EPMC Conversion**

Effective June 25, 2000, the Town ceased its participation in the Public Employees' Retirement System "Employer Paid Member Contribution" (EPMC) provision. Concurrently, the Town began paying in salary to the employees covered by this MOU the equivalent dollar amount of the former EPMC (7% of salary). Employees shall be responsible for making their own PERS member contributions.

- 18.3 The Town has adopted a Resolution materially the same as that recommended by the Public Employees' Retirement System to implement the provisions of 414 (h) (2) of the Internal Revenue Code (IRC). The T.E.A. accepts the terms of this Resolution and acknowledges that this Resolution will apply to all current and future members of the T.E.A.

**18.4 PERS Actuarial Study**

The Town will pay for and provide to T.E.A., a PERS actuarial study on at least 2.7% @55 no later than April 1, 2007 (or as soon as received from PERS.) Once the actuarial study has been received, there will be a joint review of the actuarial study by T.E.A. and other non-safety employee groups covered by PERS for the purpose of understanding the data. The data review will be held with a PERS representative in attendance to explain and answer questions regarding the actuarials. This data review does not represent a commitment by the Town to implement enhanced retirement.

**19. BENEFITS ACCRUAL/PAYMENT**

There shall be no accrual or payment of benefits during unauthorized leave, suspension without pay, or leave without pay except as mandated by the Family and Medical Leave Act.



## **20. VACATION AND LEAVES**

### **20.1 Vacation and Annual Leave Scheduling**

All vacation and annual leave scheduling is subject to the approval of the Town. Employees are required to request time off in advance. The earlier requests are submitted, the greater likelihood the request will be honored.

Every attempt will be made by the Town to honor pre-approved vacations. If a pre-approved vacation is canceled due to the scheduling needs of the Town, the Town will reimburse the employee for verified deposits for non-reimbursable reservations. All verifications must be submitted prior to the vacation formally being canceled.

### **20.2 Vacation Accrual**

All employees hired by the Town and represented by T.E.A. during the term of this agreement shall accrue vacation hours as follows:

0 to 36 months	- 10 days per year (3.08 hours per pay period)
37 to 60 months	- 16 days per year (4.92 hours per pay period)
61 to 120 months	- 21 days per year (6.46 hours per pay period)
121 to 180 months	- 23 days per year (7.08 hours per pay period)
181 months & over	- 25 days per year (7.70 hours per pay period)

20.2.1 Maximum accrual shall be 310 hours. If an employee has reached the maximum accrual level, no more vacation will be accrued until the accrual level is reduced below the maximum amount.

20.2.2 All represented employees will be eligible to cash-out eighty (80) hours of vacation accruals twice each year in May and November. Income from the cash outs will be included in the first payroll check of June and December. Employees, at their option, may deposit vacation cash-out money into deferred compensation to the extent allowed by applicable law. Employees, at their option, may convert accrued vacation leave (not annual leave) to sick leave on an hour for hour basis once per fiscal year. Employees must request this conversion in writing to the Finance Department which will have thirty (30) business days to make the requested change.

### **20.3 Sick Leave**

Sick leave shall accumulate at the rate of eight (8) hours per month (3.70 hours per pay period); to a maximum of one-thousand (1000) hours. The Town may require Association represented employees to provide a doctor's statement as proof of illness for any use of sick leave beyond one (1) working day.

### **20.4 Sick Leave Cash-Out Program**

20.4.1 Employees who terminate employment with the Town, or once a year in December, may cash-out their accumulated sick leave as follows:

1 - 59 months	at 25%
60 - 119 months	at 37.5%
120 months or more	at 50%

- 20.4.2 In order to be eligible for the sick leave cash-out program, an employee must have a sick leave accrual balance of at least 150 hours after the annual cash-out. Employees working less than full-time shall have the 150 hour balance prorated, based on hours worked. Employees who terminate with a sick leave balance of at least 150 hours may cash-out their entire balance pursuant to the schedule above.
- 20.4.3 All employees hired prior to November 15, 2004, who retire may convert 100% of this accumulated sick leave to a dollar equivalent at their hourly rate of pay at the time of retirement. This amount shall be held in an account. The employee's portion of medical payment will be withheld from their monthly retirement payment by P.E.R.S.. The Town agrees to pay the retiree quarterly in advance on the first pay period of January, April, July, and October of each year after retirement. The first payment will be prorated to the nearest quarter. The retiree's portion of medical payments will be paid from this account by the Town until all monies are depleted from the account or the retiree dies, whichever occurs first.
- 20.4.4 This account will not accrue interest and will not be paid in cash to the retiree or any beneficiaries. The retiree shall be responsible for 100% of their share of future medical insurance payments once the account is exhausted.
- 20.4.5 The Town has elected to participate under the Public Employees' Medical and Hospital Care Act, and pursuant to that Act, the Town's contribution for each retired employee or survivor shall be increased annually as specified in Resolution No. 1991-194 (attached as Appendix C).

20.5 Annual Leave

- 20.5.1 Annual leave was created as a combination of sick leave and vacation benefits. A balance of forty (40) hours must be maintained to be used for sick leave. Except in the case of sickness, annual leave requires pre-approval of the Town. The annual leave program is no longer an option for Town employees hired after August 5, 1991.
- 20.5.2 The following schedule shall apply to all employees accruing annual leave hours:
- Accumulation per the following schedule:
- 0 to 36 months - 18 days per year (5.54 hours per pay period)  
37 to 60 months - 24 days per year (7.38 hours per pay period)  
61 to 180 months - 29 days per year (8.92 hours per pay period)  
181+ months - 33 days per year (10.16 hours per pay period)
- 20.5.3 All represented employees will be eligible to cash out 40 hours of annual leave accruals each year in May and November. Money will be included in the first payroll of June and December.
- 20.5.4 Maximum accrual shall be 310 hours.

20.6 Personal Leave

Twenty-four (24) hours will be available per calendar year. Personal leave may not be accumulated from year-to-year nor is it subject to cash-out at any time.

20.7 Medical/Maternity/Family Leave

The Town recognizes that State Government Code 12945 requires the recognition of maternity as a bona fide non-job-related disability with applicable leave benefits. The Town also recognizes State Government Code 12945.2 and Federal Government Code 29 regarding family medical leave. The Town may, at its discretion, approve leave beyond the specific amount provided by the State law.

20.8 Bereavement Leave

A maximum of forty (40) hours is available for death of each member of the immediate family. Immediate family is defined as parent, spouse/domestic partner, child, dependent, sibling, and grandparent by blood or marriage.

20.9 Disaster Leave

Leave will be available for employees for disasters declared by Federal, State, County, or Town officials if those disasters affect all or a portion of the area within twenty (20) miles of Town Hall. Leave is subject to scheduling by the Town. Employees shall be allowed to charge time off to accumulated overtime, vacation hours, sick leave hours or annual leave hours (in that order).

20.10 Military Leave

Military leave and benefits shall be granted in accordance with State and Federal law, including the continuation of employee salary and benefits.

20.11 Jury Duty

Employee salary and benefits are to be continued during periods of Court-assigned jury duty. If an employee receives compensation from the Courts, the employee shall return to the Town all compensation received for jury duty, except mileage or travel related compensation.

20.12 Leave Without Pay

20.12.1 Leave without pay shall be subject to approval of the appropriate department head.

20.12.2 An employee who is on leave without pay shall not earn any employment benefits (including, but not limited to such benefits as vacation leaves, annual leaves, medical benefits, sick leaves, retirement credits for time employed or seniority entitlement of any kind) for the duration of such leave. An employee who is on leave without pay will have the ability to continue medical, dental and vision coverage at their own expense in accordance with the Town's administrative policy on benefit retention.

20.12.3 Vacation, sick leave, annual leave, or time worked shall not be used intermittently during an extended leave to interrupt a determination that an employee is on leave with no pay. In accordance with State Government Code 12945 and 12945.2 and Federal Government Code 29, Section 26.01, 26.54, no employee on maternity or family leave will be disadvantaged with respect to seniority entitlement.

20.13 Leave Balances

20.13.1 Vacation, annual leave, and accumulated overtime will be paid off upon resignation, retirement, or dismissal at 100% value effective the last full work-day with the Town. This will terminate the employee's status as an employee of the Town. Sick leave shall be cashed out as per Section 20.4.

20.13.2 In the event of an employee's death, these vacation, annual leave, and accumulated overtime leave balances shall be paid to the employee's estate.

20.14 Catastrophic Time Bank

If an employee, or an employee's spouse/domestic partner, or child becomes catastrophically ill or injured, the employee may request that a catastrophic time bank be established. If the employee is not capable, a Department Head, after consulting with and receiving approval from an employee's family member, may request that a catastrophic time bank be established. The request shall be in writing and shall be directed to the Human Resources Director. The bank will enable other employees to donate accrued CTO, vacation, annual leave, or sick leave to the requesting employee.

All donations must be made in writing on a form prescribed by the Town and shall be limited to no more than four (4) hours per donation, in one (1) hour increments. Donations to an established catastrophic time bank are final and shall not be returned to the donor.

21. GRIEVANCE PROCEDURE

Grievances shall be defined as alleged violations of this agreement or disputes regarding interpretations, application, or enforcement of this agreement.

No act or activity which may be grievable may be considered for resolution unless a grievance is filed in accordance with the procedure contained herein within thirty (30) calendar days of the date the grievable activity occurred or the date the employee could reasonably have known such activity occurred.

The parties agree that all grievances will be processed in accordance with the following procedure:

Step 1

Any employee who has a grievance shall first try to get it settled informally through discussion with his/her immediate supervisor without undue delay. Every effort shall be made to find an acceptable solution at the lowest possible level of supervision. If the employee is not satisfied with the informal resolution, then a formal grievance must be filed within thirty (30) calendar days of the date the grievable activity occurred or the date the employee could reasonably have known such activity occurred.

Step 2

If, after such discussion the employee does not believe the grievance has been satisfactorily resolved, he/she may file a formal appeal in writing to his/her department head within ten (10) calendar days after receiving the informal decision of his/her immediate supervisor.

The department head receiving the formal appeal shall enter his/her written decision within ten (10) calendar days after receiving the appeal.

### Step 3

If, after receipt of the written decision of the department head the employee is still dissatisfied, he/she may appeal the decision of the department head to the Town Manager. Such appeal shall be made by filing a written appeal to the Town Manager within fourteen (14) calendar days after receipt of the written decision of the department head. The Town Manager shall review the decision of the department head, and his/her decision within thirty (30) calendar days after the appeal is made.

### Step 4

If, after receipt of the written decision of the Town Manager the employee is still dissatisfied, he/she may appeal the decision of the Town Manager to the Personnel Board. Such appeal shall be made by filing a written appeal to the Chair of the Personnel Board within fourteen (14) calendar days after receipt of the written decision of the Town Manager.

The Personnel Board shall establish a hearing date within thirty (30) calendar days of receipt of the written appeal. The Personnel Board shall conduct a closed hearing giving opportunity for presentation by the employee or his/her representative and the Town Manager. The Personnel Board shall render a written decision within thirty (30) calendar days after the appeal is made. If, after receipt of the written decision of the Personnel Board, the employee is still dissatisfied, he/she may appeal the decision of the Personnel Board to the Town Council. Such appeal shall be made by filing a written appeal with the Mayor. The Mayor shall schedule a closed hearing with The Town Council within thirty (30) calendar days after receipt of the appeal. At this hearing, the employee and the Town Manager may make presentations. The Town Council decision shall be final. The Town Council shall render a decision within thirty (30) calendar days after the hearing. An open hearing may be conducted by the Personnel Board or Town Council with mutual consent of the Town and person(s) filing the grievance.

The time limitations for filing and responding to grievances may be waived or extended by written mutual agreement of the parties. If either party to the grievance so requests, an informal hearing shall be conducted at the department head or Town Manager appeal levels. Employees may be represented by counsel or other person at any stage in the grievance process.

If the employee does not receive a response from the supervisor or department head within the time limits specified in steps 1 and 2 above, the grievance will proceed for review to the next level in the grievance procedure.

## **22. MISCELLANEOUS ISSUES**

### **22.1 Personnel Rules**

It is the Town's intent to make copies of the Personnel Rules readily available. In this regard a copy of the Rules will be kept on file with each Department Head, in employee lounges, in the Manager's Office, the Clerk's Office and the Library Reference Section. These copies will be updated periodically.

### **22.2 Personnel Manual**

The Town shall include appropriate sections of this agreement in an Employee Personnel Manual.

22.3 Mileage Reimbursement

Employees using personal vehicles on official Town business shall be reimbursed at the mileage rate established by the I.R.S. Private vehicles used for Town business shall comply with all applicable California Vehicle Code Sections commencing with Section 16430 through 16484 pertaining to "Insurance or Proof of Ability to Respond to Damages."

22.4 Vehicle Acquisition

T.E.A. recognizes the Town's sole right to determine the specifications of all Town vehicles. The Town will seek employees input when considering vehicle acquisition.

22.5 Discipline

The Town Manager and Town Attorney will develop Personnel Procedures including actions subject to discipline and will solicit comments from T.E.A.

22.6 Benefit Application

Employee benefits shall be prorated to a level equal to the regularly scheduled hours. For example, an employee working a regular schedule of 32 hours per week will earn 80% of the benefits provided to an employee working a regular schedule of 40 hours per week.

**23. TRAINING PAY**

Communication Dispatchers assigned to train and evaluate newly hired Communication Dispatchers will receive a premium pay of 5% for the actual hours worked while providing authorized training.

**24. TOWN VEHICLES**

Town vehicles are not to be taken home.

**25. COMPLETE AGREEMENT**

The parties acknowledge that during the negotiations that resulted in this MOU, each had the unlimited right and opportunity to make proposals with regard to the terms and conditions of employment, and that the understandings and agreements contained in this MOU were arrived at after that full opportunity. This MOU may only be amended during its term by the parties' mutual agreement in writing unless compelled by State or Federal law. This MOU is intended to encompass all matters subject to meeting and conferring between the Town and the Association, and it supersedes and replaces any and all past practices, whether directly referred to or otherwise addressed in any way in this MOU.

## **APPENDIX B**

### **PAY AND CLASSIFICATION SYSTEM**

Consideration for advancement from step to step within a range shall occur at intervals of one (1) year in length effective on each anniversary date. Each employee shall receive an annual performance evaluation. This evaluation will be the basis for step advancement. Such advancement to the next step shall only be authorized if the supervisor and department manager finds that the employee is satisfactorily performing the duties of their position as reflected on the annual evaluation form.

If the employee's performance is not satisfactory as determined by the supervisor's annual evaluation, the department manager shall deny advancement to the next step. The department manager has the option, at their discretion, based on a recommendation by the supervisor, to recognize improving performance by granting or denying a half-step increase in lieu of denying the advancement to the next step for unsatisfactory performance.

If the employee's performance is exceptional as determined by the annual evaluation of the supervisor on the performance evaluation form, the department manager with the approval of the Town Manager has the discretion to grant a two step or one and one-half step increase. It is intended that this be used sparingly so that it can be reserved to recognize the truly exceptional employee who is achieving journey level status in their classification (i.e. fully capable of performing all duties of the position) and can perform at the same level as an employee with the years of experience required to achieve advancement to the new step if they had advanced one step each year.

RESOLUTION 1991-194

— RESOLUTION ELECTING TO BE SUBJECT TO  
PUBLIC EMPLOYEES' MEDICAL AND HOSPITAL CARE ACT  
ONLY WITH RESPECT TO  
MEMBERS OF A SPECIFIC EMPLOYEE ORGANIZATION  
AND  
FIXING THE EMPLOYER'S CONTRIBUTION FOR  
EMPLOYEES AND THE EMPLOYER'S CONTRIBUTION  
FOR ANNUITANTS AT DIFFERENT AMOUNTS

WHEREAS, Government Code Section 22850.3 provides that a contracting agency may elect upon proper application to participate under the Public Employees' Medical and Hospital Care Act with respect to a recognized employee organization only; and

WHEREAS, Government Code Section 22754 (g) defines any Special District as a contracting agency; and

WHEREAS, Government Code Section 22857 provides that a contracting agency may fix the amount of the employer's contribution for employees and the employer's contribution for retired employees and survivors at different amounts provided that the monthly contribution for retired employees and survivors shall be annually increased by an amount not less than 5 percent of the monthly contribution for employees, until such time as the amounts are equal; and

WHEREAS, a Special District is hereby defined as a non-profit, self governed public agency within the State of California, and comprised solely of public employees performing a governmental rather than proprietary function; and

WHEREAS, Town of Los Gatos, hereinafter referred to as Special District is an entity meeting the above definition; and

WHEREAS, the Special District desires to obtain for the members of elected officials, who are employees and annuitants of the Agency, the benefit of the Act and to accept the liabilities and obligations of an employer under the Act and Regulations.

NOW, THEREFORE, BE IT RESOLVED, that the Special District desires to obtain for elected officials, who are employees and annuitants of the agency, the benefit of the Act and to accept the liabilities and obligations of an employer under the Act and Regulations; and

BE IT FURTHER RESOLVED, that the Special District elects, and it does hereby elects, to be subject to the provisions of the Act; and

BE IT FURTHER RESOLVED, that the employer's contribution for each employee shall be the amount necessary to pay the full cost of his enrollment, including the enrollment of his family members in a health benefits plan up to a maximum of the Kaiser North premium rates (1, 2 and 3 party) per month; and

BE IT FURTHER RESOLVED, that the employer's contribution for each retired employee or survivor shall be the amount necessary to pay the cost of his enrollment, including the enrollment of his family members, in a health benefits plan up to a maximum of \$1.00 per month; and

BE IT FURTHER RESOLVED, that the employer's contribution for each retired employee or survivor shall be increased annually by 5% percent of the monthly contribution for employees, until such time as the contributions are equal, and that the contributions for active and retired employees and survivors shall be in addition to those amounts contributed by the Special District for administrative fees and to the Contingency Reserve Fund; and



**BE IT FURTHER RESOLVED**, that the executive body appoint and direct, and does hereby appoint and direct, the Town Manager to file with the Board of Administration of the Public Employees' Retirement System a verified copy of this Resolution, and to perform on behalf of said Special District all functions required of it under the Act and Regulations of the Board of Administration; and

**BE IT FURTHER RESOLVED**, that coverage under the Act be effective retroactive to August 1, 1991.

**PASSED AND ADOPTED** at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 3rd day of September, 1991 by the following vote.

**COUNCIL MEMBERS:**

**AYES:** Randy Attaway, Joanne Benjamin, Steven Blanton, and Eric D. Carlson

**ABSENT:** Brent N. Ventura

SIGNED:



VICE-MAYOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

ATTEST:



CLERK OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

MGR ORD-RES A:\RESOS\090391.R1

**APPENDIX D**  
**TOWN OF LOS GATOS**  
**AND THE TOWN EMPLOYEES ASSOCIATION**  
**SIDELETTER OF AGREEMENT**

**Performance Evaluation System**

The Town and T.E.A. agree that a committee will be formed and convene one (1) month after ratification by the Town and T.E.A. of the November 1, 2006-October 31, 2008 MOU, to design and implement a new agreed-upon performance evaluation process/system. It is further agreed that other interested parties (i.e., other bargaining units) can be included on this committee.

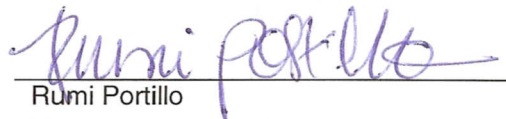
FOR T.E.A.



Debra Caldwell

T.E.A. President

FOR Town of Los Gatos



Rumi Portillo

Human Resources Director

**APPENDIX E**

**TOWN OF LOS GATOS  
AND THE TOWN EMPLOYEES ASSOCIATION  
SIDELETTER OF AGREEMENT**

**Successor MOU**

The Town and T.E.A. agree that an initial meet and confer regarding the negotiations for a successor MOU shall take place no later than 180 days prior to the termination date of the current Memorandum of Understanding.

The Town will pay for training in interest-based bargaining for the negotiating teams and to provide a neutral third-party facilitator, mutually agreed to by the parties.

FOR T.E.A.



Debra Caldwell

T.E.A. President

FOR Town of Los Gatos



Rumi Portillo

Human Resources Director